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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,723	09/22/2003	Lawrence Carl Smith	2002B133/2	2436

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EXAMINER

RABAGO, ROBERTO

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/668,723	Applicant(s) SMITH ET AL.	
	Examiner Roberto Rábago	Art Unit 1713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 6-20 is/are rejected.
- 7) ☒ Claim(s) 3-5 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/22/03 are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/26/2004</u> . | 6) <input type="checkbox"/> Other: ____. |

JLC

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 1/26/2004 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but foreign language reference CH 425733 has not been considered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 11, it cannot be determined whether the required concentration of catalyst in the second oil is meant to specify the catalyst in the oil before combination with the first oil, or the catalyst concentration in the combined first and second oils.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 2, 6-9 and 11-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Erickson et al. (US 6,426,394).

The reference discloses in Example 1, Samples 10-12, a method of mixing a slurry of metallocene in mineral oil with a cocatalyst, then combining the mixture with a transport liquid comprising mineral oil, followed by injection of the mixture into a gas phase reactor for polymerization of propylene (for further illustration of the reactor, patentee has stated that the reactor shown in US 5,317,036 was used). The cited examples expressly include all limitations of claims 1, 2, 7, 8 and 17, but have not provided a measurement of the parameters claimed in claims 6, 9, 11-16 and 18-20. Regarding claim 16, the reference method would inherently result in a reduced viscosity stream because the carrier stream does not contain the metallocene slurry prior to mixing with the catalyst stream. Regarding properties of the mineral oil, the claimed values would be either inherent or immediately envisaged by those of ordinary skill in

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the art because both applicants and patentee appear to have used entirely conventional mineral oil, and applicants' claimed properties ranges are exceedingly broad.

Regarding the claimed mass fractions of catalyst and oil components, those of ordinary skill in the art would immediately envisage the claimed ranges because applicants have set forth broad ranges of conventional values.

6. Claims 1, 2 and 6-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Shamshoum et al. (US 6,239,058).

The reference discloses a supported metallocene slurry (col. 7, lines 42-50) combined with TIBAL in mineral oil, and injected into a propylene polymerization reactor (Examples 2, 5-8, 11-14, see also Table I). The reference describes the catalyst component path in greater detail at col. 10, lines 21-39, wherein catalyst lines join with the carrier stream feeding into the first reactor, the carrier stream comprising mineral oil. The cited examples expressly include all limitations of claims 1, 2, 7, 8, 10 and 17, but have not provided a measurement of the parameters claimed in claims 6, 9, 11-16 and 18-20. Regarding claim 16, the reference method would inherently result in a reduced viscosity stream because the carrier stream does not contain the metallocene slurry prior to mixing with the catalyst stream. Regarding properties of the mineral oil, the claimed values would be either inherent or immediately envisaged by those of ordinary skill in the art because both applicants and patentee appear to have used entirely conventional mineral oil, and applicants' claimed properties ranges are exceedingly broad. Regarding the claimed mass fractions of catalyst and oil components, those of

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ordinary skill in the art would immediately envisage the claimed ranges because applicants have set forth broad ranges of conventional values.

Allowable Subject Matter

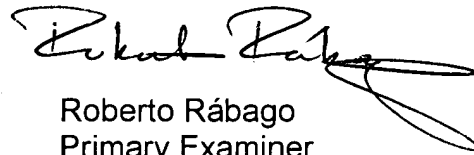
7. Claims 3-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art cited on this record has not described the claimed method which further comprises the required vessels.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberto Rábago whose telephone number is (571) 272-1109. The examiner can normally be reached on Monday - Friday from 8:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Roberto Rábago
Primary Examiner
Art Unit 1713

RR
March 20, 2005